

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

T. Z. TENNILLE,

Plaintiff,

v.

Case No. 10-10018

DETROIT HOTEL SERVICES,

Defendant.

ORDER OF DISMISSAL WITHOUT PREJUDICE

On January 1, 2010, Plaintiff initiated this lawsuit by filing a complaint against Defendant. On January 8, 2010, a summons was issued by the Clerk of Court. Plaintiff has yet to serve Defendant with the summons and complaint. On May 18, 2010, the court ordered Plaintiff to show cause why this case should not be dismissed for lack of prosecution. Although Plaintiff timely responded on May 25, 2010, the court is not persuaded that Plaintiff has demonstrated good cause for his failure to effect service on Defendant in this case. The court will therefore dismiss this action without prejudice.

Federal Rule of Civil Procedure 4(m) provides that if service is not effectuated within 120 days, the court shall dismiss the action without prejudice as to that defendant. However, if the plaintiff shows good cause for his failure to serve that defendant, the court shall extend the time for service for an appropriate period. Fed. R. Civ. P. 4(m). Eastern District of Michigan Local Rule 41.2 likewise provides that if the parties have not taken action within a reasonable time, the court may enter an order dismissing the case for lack of prosecution.

In the response to the order to show cause, Plaintiff simply asserts that Plaintiff and Defendant have been in negotiations with a third party and the Plaintiff is in the process of serving Defendant. This does not amount to good cause for failing to serve Defendant. *Nafziger v. McDermott Int'l, Inc.*, 467 F.3d 514 (6th Cir. 2006) (no good cause where plaintiffs engaged in discussions with defense counsel regarding service of process but failed to come to a compromise and where plaintiffs never requested or obtained leave of court to extend time to serve defendants). The court finds that, under these circumstances, Plaintiff has not shown "good cause" for his failure to effect service on Defendants, Fed. R. Civ. P. 4(m), or for his failure to prosecute this case, E.D. Mich. LR 41.2. Accordingly,

IT IS ORDERED that this action is DISMISSED WITHOUT PREJUDICE for lack of service and failure to prosecute pursuant to Federal Rule of Civil Procedure 4(m) and Eastern District of Michigan Local Rule 41.2.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 28, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 28, 2010, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522